IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX APPLICATION No 250 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE K.A.PUJ

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

COMMISSIONER OF INCOME TAX

Versus

EIMCO ELECON (INDIA) LTD.

Appearance:

1. INCOME TAX APPLICATION No. 250 of 1999
MR MANISH R BHATT for Petitioner No. 1
RULE SERVED for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE K.A.PUJ

Date of decision: 07/08/2002

ORAL JUDGEMENT

(Per : MR.JUSTICE K.A.PUJ)

The revenue has proposed the following question

for determination of this Court :-

"Whether, the Appellate Tribunal is right in law and on facts in setting aside the order passed by the Commissioner of Income Tax under section 263 of the Act whereby he directed the Assessing Officer to modify the assessment order considering the liability of unpaid sales tax as appearing in the balance sheet which was shown on account of sales tax deferment invoking the provisions of section 43B, in absence of amendment in the Sales Tax Act ?"

2. The issue raised by the revenue while proposing the aforesaid question has recently been considered by us in Income-tax Reference No. 110 of 1995 which is decided on 26.7.2002. In view of the said decision, the question proposed by the revenue does not survive and hence, this application is rejected.

Rule is discharged with no order as to costs.

(M.S. Shah, J.) (K.A. Puj, J.)

sundar/-